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Centre against Apartheid

Notes and Documents

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F. W. DE KLERK ANNOUNCES CHANGES IN HIS GOVERNMENT'S POLICY

[Note: This issue is published at the request of the Special Committee against Apartheid. Pursuant to the Declaration on Apartheid and its Destructive Consequences in Southern Africa adopted by consensus at the sixteenth special session of the United Nations General Assembly held in December 1989, the Special Committee decided to publish a series of documents relating to a peaceful and negotiated settlement of the conflict in South Africa.

This issue contains excerpts from the address by Mr. F. W. de Klerk at the opening session of the South African Parliament on 2 February 1990.

The views expressed are those of the author.]

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The general election of 6 September 1989 placed our country irrevocably on the road of drastic change. Underlying this is the growing realization by an increasing number of South Africans that only a negotiated understanding among the representative leaders of the entire population is able to ensure lasting peace.

The alternative is growing violence, tension and conflict. That is unacceptable and in nobody's interest. The well-being of all in this country is linked inextricably to the ability of the leaders to come to terms with one another on a new dispensation. No one can escape this simple truth.

On its part, the Government will accord the process of negotiation the highest priority. The aim is a totally new and just constitutional dispensation in which every inhabitant will enjoy equal rights, treatment and opportunity in every sphere of endeavour - constitutional, social and economic.

I hope that this new Parliament will play a constructive part in both the prelude to negotiations and the negotiating process itself. I wish to ask all of you who identify yourselves with the broad aim of a new South Africa, and that is the overwhelming majority:

- Let us put petty politics aside when we discuss the future during this session;

- Help us build a broad consensus about the fundamentals of a new, realistic and democratic dispensation;

- Let us work together on a plan that will rid our country of suspicion and steer it away from domination and radicalism of any kind.

During the term of this new Parliament, we shall have to deal, complementary to one another, with the normal processes of legislation and day-to-day government, as well as with the process of negotiation and renewal.

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Human rights

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The Government accepts the principle of recognition and protection of the fundamental individual rights which form the constitutional basis of most Western democracies. We acknowledge, too, that the most practical way of protecting those rights is vested in a declaraton of rights justifiable by an independent judiciary. However, it is clear that a system for the protection of the rights of individuals, minorities and national entities has to form a well-rounded and balanced whole. South Africa has its own national composition and our constitutional dispensation has to take this into account. The formal recognition of individual rights does not mean that the problems of a heterogeneous population will simply disappear. Any new

constitution which disregards this reality will be inappropriate and even harmful.

Naturally, the protection of collective, minority and national rights may not bring about an imbalance in respect of individual rights. It is neither the Government's policy nor its intention that any group - in whichever way it may be defined - shall be favoured above or in relation to any of the others.

The Government is requesting the Law Commission to undertake a further task and report on it. This task is directed at the balanced protection in a future constitution of the human rights of all our citizens, as well as of collective units, associations, minorities and nations. This investigation will also serve the purpose of supporting negotiations towards a new constitution.

The terms of reference also include:

- The identification of the main types and models of democratic constitutions which deserve consideration in the aforementioned context;

- An analysis of the ways in which the relevant rights are protected in every model; and

- Possible methods by means of which such constitutions may be made to succeed and be safeguarded in a legitimate manner.

The death penalty

The death penalty has been the subject of intensive discussion in recent months. However, the Government has been giving its attention to this extremely sensitive issue for some time. On 27 April 1989, the honourable Minister of Justice indicated that there was merit in suggestions for reform in this area. Since 1988 in fact, my predecessor and I have been taking decisions on reprieves which have led, in proportion, to a drastic decline in executions.

We have now reached the position in which we are able to make concrete proposals for reform. After the Chief Justice was consulted, and he in turn had consulted the Bench, and after the Government had noted the opinions of academics and other interested parties, the Government decided on the following broad principles from a variety of available options:

- That reform in this area is indicated;

- That the death penalty should be limited as an option of sentence to extreme cases, and specifically through broadening judicial discretion in the imposition of sentence; and

- That an automatic right of appeal be granted to those under sentence of death.

Should these proposals be adopted, they should have a significant influence on the imposition of death sentences on the one hand and, on the other, should ensure that every case in which a person has been sentenced to

death, will come to the attention of the Appellate Division.

These proposals require that everybody currently awaiting execution be accorded the benefit of the proposed new approach. Therefore, all executions have been suspended and no executions will take place until Parliament has taken a final decision on the new proposals. In the event of the proposals being adopted, the case of every person involved will be dealt with in accordance with the new guidelines. In the meantime, no executions have taken place since 14 November 1989.

New and uncompleted cases will still be adjudicated in terms of the existing law. Only when the death sentence is imposed, will the new proposals be applied, as in the case of those currently awaiting execution.

The legislation concerned also entails other related principles which will be announced and elucidated in due course by the Minister of Justice. It will now be formulated in consultation with experts and submitted to Parliament as soon as possible.

I wish to urge everybody to join us in dealing with this highly sensitive issue in a responsible manner.

Socio-economic aspects

A changed dispensation implies far more than political and constitutional issues. It cannot be pursued successfully in isolation from problems in other spheres of life which demand practical solutions. Poverty, unemployment, housing shortages, inadequate education and training, illiteracy, health needs and numerous other problems still stand in the way of progress and prosperity and an improved quality of life.

The conservation of the physical and human environment is of cardinal importance to the quality of our existence. For this the Government is developing a strategy with the aid of an investigation by the President's Council.

All of these challenges are being dealt with urgently and comprehensively. The capability for this has to be created in an economically accountable manner. Consequently, existing strategies and aims are undergoing a comprehensive revision.

From this will emanate important policy announcements in the socio-economic sphere by the responsible Ministers during the course of the session. One matter about which it is possible to make a concrete announcement is the Separate Amenities Act, 1953. Pursuant to my speech before the President's Council late last year, I announced that this Act will be repealed during this session of Parliament.

The State cannot possibly deal alone with all of the social advancement our circumstances demand. The community at large, and especially the private sector, also have a major responsibility towards the welfare of our country and its people.

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Negotiation

In conclusion, I wish to focus the spotlight on the process of negotiation and related issues. At this stage I am refraining deliberately from discussing the merits of numerous political questions which undoubtedly will be debated during the next few weeks. The focus, now, has to fall on negotiation.

Practically every leader agrees that negotiation is the key to reconciliation, peace and a new and just dispensation. However, numerous excuses for refusing to take part, are advanced. Some of the reasons being advanced are valid. Others are merely part of a political chess game. And while the game of chess proceeds, valuable time is being lost.

Against this background, I committed the Government during my inauguration to giving active attention to the most important obstacles in the way of negotiation. Today I am able to announce far-reaching decisions in this connection.

I believe that these decisions will shape a new phase in which there will be a movement away from measures which have been seized upon as a justification for confrontation and violence. The emphasis has to move, and will move now, to a debate and discussion of political and economic points of view as part of the process of negotiation.

I wish to urge every political and community leader, in and outside Parliament, to approach the new opportunities which are being created, constructively. There is no time left for advancing all manner of new conditions that will delay the negotiation process.

The steps that have been decided are the following:

- The prohibition of the African National Congress of South Africa (ANC), the Pan Africanist Congress of Azania (PAC), the South African Communist Party and a number of subsidiary organizations is being rescinded;

- People serving prison sentences merely because they were members of one of these organizations or because they committed another offence which was merely an offence because the prohibition on one of the organizations was in force, will be identified and released. Prisoners who have been sentenced for other offences such as murder, terrorism or arson are not affected by this;

- The media emergency regulations as well as the education emergency regulations are being abolished in their entirety;

- The security emergency regulations will be amended to make provisions for effective control over visual material pertaining to scenes of unrest;

- The restrictions in terms of the emergency regulations on 33 organizations are being rescinded. The organizations include the following:

  National Education Crisis Committee (NECC)

  South African National Students Congress

United Democratic Front (UDF)

Congress of South African Trade Unions (COSATU)

Die Blanke Bevrydingsbeweging van Suid-Afrika;

- The conditions imposed in terms of the security emergency regulations on 374 people on their release, are being rescinded and the regulations which provide for such conditions are being abolished;

- The period of detention in terms of the security emergency regulations will be limited henceforth to six months. Detainees also acquire the right to legal representation and a medical practitionar of their own choosing.

These decisions by the Cabinet are in accordance with the Government's declared intention to normalize the political process in South Africa without jeopardizing the maintenance of the good order. They were preceded by thorough and unanimous advice by a group of officials which included members of the security community.

Implementation will be immediate and, where necessary, notices will appear in the Government Gazette from tomorrow.

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On the state of emergency, I have been advised that an emergency situation, which justifies these special measures which have been retained, still exists. There is still conflict which is manifesting itself mainly in Natal, but as a consequence of the country-wide political power-struggle. In addition, there are indications that radicals are still trying to disrupt the possibilities of negotiation by means of mass violence.

It is my intention to terminate the state of emergency completely as soon as circumstances justify it and I request the co-operation of everybody towards this end. Those responsible for unrest and conflict have to bear the blame for the continuing state of emergency. In the meantime, the state of emergency is inhibiting only those who use chaos and disorder as political instruments. Otherwise, the rules of the game under the state of emergency are the same for everybody.

Against this background, the Government is convinced that the decisions I have announced are justified from the security point of view. However, these decisions are justified from a political point of view as well.

Our country and all its people have been embroiled in conflict, tension and violent struggle for decades. It is time for us to break out of the cycle of violence and break through to peace and reconciliation. The silent majority is yearning for this. The youth deserve it.

With the steps the Government has taken, it has proved its good faith and the table is laid for sensible leaders to begin talking about a new dispensation, to reach an understanding by way of dialogue and discussion.

The agenda is open and the overall aims to which we are aspiring should be acceptable to all reasonable South Africans.

Among other things, those aims include a new, democratic constitution; universal franchise; no domination; equality before an independent judiciary; the protection of minorities as well as of individual rights; freedom of religion; a sound economy based on proven economic principles and private enterprise; and dynamic programmes directed at better education, health services, housing and social conditions for all.

In this connection, Mr. Nelson Mandela could play an important part. The Government has noted that he has declared himself to be willing to make a constructive contribution to the peaceful political process in South Africa.

I wish to put it plainly that the Government has taken a firm decision to release Mr. Mandela unconditionally. I am serious about bringing this matter to finality without delay. The Government will take a decision soon on the date of his release. Unfortunately, a further short passage of time is unavoidable.

Normally, there is a certain passage of time between the decision to release and the actual release because of logistical and administrative requirements. In the case of Mr. Mandela, there are factors in the way of his immediate release, of which his personal circumstances and safety are not the least. He has not been an ordinary prisoner for quite some time. Because of that, his case requires particular circumspection.

Today's announcement, in particular, goes to the heart of what black leaders - also Mr. Mandela - have been advancing over the years as their reason for having resorted to violence. The allegation has been that the Government did not wish to talk to them and that they were deprived of their right to normal political activity by the prohibitions of their organizations.

Without conceding that violence has ever been justified, I wish to say today to those who argued in this manner:

- The Government wishes to talk to all leaders who seek peace;

- The unconditional lifting of the prohibition on the said organizations places everybody in a position to pursue politics freely;

- The justification for violence which was always advanced, no longer exists.

These facts place everybody in South Africa before a fait accompli. On the basis of numerous previous statements, there is no longer any reasonable excuse for the continuation of violence. The time for talking has arrived and whoever will make excuses does not really wish to talk.

Therefore, I repeat my invitation with greater conviction than ever: walk through the open door, take you place at the negotiating table together with the Government and other leaders who have important power bases inside and outside of Parliament.

Henceforth, everybody's political points of view will be tested against their realism, their workability and their fairness. The time for negotiation has arrived.

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Conclusion

In my inaugural address I said the following:

"All reasonable people in this country - by far the majority - anxiously await a message of hope. It is our responsibility as leaders in all spheres to provide that message realistically with courage and conviction. If we fail in that, the ensuing chaos, the demise of stability and progress, will for ever be held against us.

"History has thrust upon the leadership of this country the tremendous responsibility to turn our country away from its present direction of conflict and confrontation. Only we, the leaders of our peoples, can do it.

"The eyes of responsible Governments across the world are focused on us. The hopes of millions of South Africans are centred around us. The future of southern Africa depends on us. We dare not falter or fail."

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